Consent Item 9

TO: East Bay Community Energy Board of Directors

FROM: Melissa Brandt, Senior Director of Public Policy and Deputy General Counsel

SUBJECT: Amendment to Legal Services Agreement with Keyes & Fox LLP for Regulatory Advocacy

DATE: March 20, 2019

____________________________

Recommendation

Approve an Amendment to the Legal Services Agreement with Keyes & Fox LLP in an amount not to exceed $125,000 to provide regulatory legal advocacy services.

Background and Discussion

Keyes & Fox LLP (Keyes & Fox) is an Oakland-based law firm that was founded in 2008 by Jason Keyes and Kevin Fox. Keyes & Fox started out representing non-profit clients that were focusing on eliminating regulatory roadblocks to clean energy market development across the U.S. The firm now advocates on a wide range of legal, policy and project development issues for corporate, governmental, non-profit and other clients. Their attorneys have represented clients in regulatory proceedings in over 40 states.

In 2018, Keyes & Fox represented a consortium of Community Choice Aggregators (CCAs) that included East Bay Community Energy (EBCE) in the “Energy Resource Recovery Account” (ERRA) regulatory proceedings at the California Public Utilities Commission (CPUC). This proceeding involved implementing the Power Charge Indifference Adjustment Amount (PCIA) in rates charged to CCA (including EBCE) customers. This advocacy has resulted in material reductions in the PCIA amount that PG&E would otherwise have charged to CCAs.

Because of the PCIA decision, the ERRA-related advocacy required a longer, more sustained effort than initially anticipated. The additional work required a first, and now second, amendment of the “not to exceed” amount in the original contract. In addition to ongoing work on the current ERRA activities, EBCE seeks additional assistance from Keyes & Fox for advocacy services in 2019 and 2020 in 2020 ERRA proceedings, PG&E’s general rate case, and the CPUC’s “safety culture investigation” of PG&E, as set forth in the attached contract amendment. These proceedings will extend through 2020.
As EBCE’s standard Legal Services Agreement has not materially changed from the form used in 2018, staff recommends signing a contract amendment with Keyes & Fox with updated contract terms, rather than executing a new agreement.

**Fiscal Impact**

This amendment will result in an additional not to exceed $125,000 spend across calendar years 2019 and 2020. Regulatory legal advocacy services are included in the current fiscal year budget at this level.

**Attachments**

A. Second Amendment to Legal Services Agreement with Keyes & Fox LLP
Second Amendment to Legal Services Agreement with Keyes & Fox LLP

This Second Amendment to the Agreement with Keyes & Fox LLP for Legal Services ("Second Amendment") is made this 22nd day of January, 2019, by and between the East Bay Community Energy Authority, a Joint Powers Agency formed under the laws of the State of California ("EBCE") and Keyes & Fox LLP ("K&F"), for the purposes of adding additional funding.

Recitals

A. EBCE and K&F entered into that certain agreement for legal services dated September 14, 2018, wherein K&F agreed to provide legal services in the area of regulatory litigation.

B. EBCE desires to continue to use K&F’s expertise in the area of regulatory litigation, and K&F has the expertise and personnel available to assist EBCE in this area.

Now therefore, for good and valuable consideration, the amount and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Section 3 of the Agreement is amended in part to increase the total compensation of the Agreement to $125,000.

2. Exhibit A (Scope of Services) of the Agreement is amended as shown in Amended Exhibit A attached hereto.

3. Exhibit B (Compensation) of the Agreement is amended as shown in Amended Exhibit B attached hereto.

4. Exhibit F (Joint Representation Agreement) of the Agreement is amended as shown in Amended Exhibit F.

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5. All other terms and conditions in the Agreement not otherwise modified by this Amendment will remain in full force and effect.

In witness whereof, the Parties have entered this Amendment on the date written above.

East Bay Community Energy Authority, Keyes & Fox, LLP
A Joint Powers Authority

Scott Haggerty Tim Lindl
Chair of the Board of Directors Partner

Date: ___________________________ Date: March 11, 2019

Approved as to form:

_____________________________
General Counsel
Amended Exhibit A

Scope of Services

Special Counsel will represent Authority, as a member of the joint clients listed in the Joint Representation Agreements, Exhibit F, with respect to:

1. **2019 ERRA** – Pacific Gas & Electric Company’s Application 18-06-001, and advice letters filed pursuant to decisions therein, before the California Public Utilities Commission.


3. **PG&E GRC** – Pacific Gas & Electric Company’s Application 18-12-009, and advice letters filed pursuant to decisions therein, before the California Public Utilities Commission.

In addition, Special Counsel will represent Authority in proceedings and related advice letter filings at the California Public Utilities Commission in Pacific Gas & Electric Company’s upcoming 2019 ERRA compliance application, and 2020 ERRA forecast application.
Amended Exhibit B

Compensation

Authority will compensate Special Counsel for legal services in accordance with the terms and conditions of this Agreement based on the rates and compensation schedule set forth below. Compensation will be calculated based on the hourly rates set forth below.

ATTORNEYS

Kevin Fox  340  
Jason Keyes  310  
Jacob Schlesinger  250  
Tim Lindl  275  
Sheridan Pauker  330  
Scott Dunbar  220  
Beren Argetsinger  200  

NON-ATTORNEYS

Justin Barnes  170  
Laurel Passera  140  
Ben Inskeep  135  
Blake Elder  110  
Vanessa Luthringer  90  
Amended Exhibit F

Joint Representation Agreements
August 27, 2018

East Bay Community Energy
Nick Chaset
Chief Executive Officer
1111 Broadway, 3rd Floor
Oakland, California 94607

Marin Clean Energy
Dawn Weisz
Chief Executive Officer
1125 Tamalpais Avenue
San Rafael, California 94901

Monterey Bay Community Power
Tom Habashi
Chief Executive Officer
70 Garden Court, Suite 300
Monterey, California 93940

Peninsula Clean Energy Authority
Jan Pepper
Chief Executive Officer
2075 Woodside Road
Redwood City, California 94061

Pioneer Community Energy
Jenine Windeshausen
Executive Director
2976 Richardson Drive
Auburn, California 95603

Silicon Valley Clean Energy
Girish Balachandran
Chief Executive Officer
333 W. El Camino Real, Suite 290
Sunnyvale, California 94087

Sonoma Clean Power Authority
Geof Syphers
Chief Executive Officer
50 Santa Rosa Avenue, 5th Floor
Santa Rosa, California 95404


Keyes & Fox LLP (“K&F”) is delighted that East Bay Community Energy (“EBCE”), Marin Clean Energy (“MCE”), Monterey Bay Community Power (“MBCP”), Peninsula Clean Energy Authority (“PCE”), Pioneer Community Energy (“Pioneer”), Silicon Valley Clean Energy (“SVCE”), and Sonoma Clean Power Authority (“SCP”) (collectively, “Joint Clients”) have decided to engage K&F to provide legal representation before the California Public Utilities Commission (“Commission”) in Application 18-06-001 (the “Legal Services”). This letter describes the basis of the attorney-client relationship between K&F and the Joint Clients with respect to the Legal Services. The terms and conditions regarding how K&F will bill for the
Legal Services are set forth in an engagement letter or other agreement with each of the Joint Clients.

1. Joint Representation

K&F will represent each of the Joint Clients with respect to the Legal Services, and all appearances and filings made in connection with the Legal Services shall be made in the name of all of the Joint Clients. By executing this Joint Representation Agreement, each of the Joint Clients agrees that K&F will take direction from each of them jointly in this matter. In addition, each of you agrees that if any of EBCE, MCE, MBCP, PCE, Pioneer, SVCE, or SCP requests in writing – for any reason or for no reason – to withdraw from this Joint Representation Agreement, that withdrawal would be effective immediately, and from that point forward, K&F would not have an attorney-client relationship or further attorney-client obligations with the withdrawn party with respect to the Legal Services.

K&F will coordinate projects with either Jeremy Waen at PCE or Neal Reardon at SCP, as the designated representatives of the Joint Clients for the Legal Services, or with whomever Mr. Waen or Mr. Reardon may specifically delegate that authority. We understand that Mr. Waen and Mr. Reardon have the authority to make decisions on behalf of the Joint Clients in connection with the Legal Services proposed, and we are relying on that understanding.

Because K&F will be representing multiple clients in this engagement, the applicable rules of professional conduct require that we inform you of actual and potential conflicts of interest with respect to joint representation, and that we obtain informed, written consent from each of the Joint Parties agreeing to the joint representation.

K&F has run a conflict check as it relates to the Legal Services. Based on the information we have been provided, we do not believe representation of the Joint Clients with respect to the Legal Services involves an actual conflict of interest between any of the Joint Clients. If any one of the Joint Clients is aware of an actual conflict of interest as between them, please let K&F know immediately.

Even though there may be no actual conflict, there are potential conflicts. K&F currently represents MCE, PCE, SCP, Valley Clean Energy Alliance and other organizations and companies in California’s energy industry in matters that do not pertain to the Legal Services. In addition, K&F has provided, or continues to provide, representation to MCE, PCE and Valley Clean Energy Alliance in a number of dockets before the Commission in which one or more of the Joint Clients have been, or continue to be, a party or participant.

Differences in respective financial resources, prior experience, interests, and objectives of the Joint Clients could make one approach to K&F’s responsibilities more favorable to one of the Joint Clients than to the others, or could lead to disputes among the Joint Clients. For example, if K&F was to represent only one client, rather than all the Joint Clients, K&F might be able to obtain more favorable treatment for that one. Because K&F will be representing all the Joint Clients, it will be necessary to balance the interests of the Joint Clients rather than prioritizing the interests of only one client.
If any of the Joint Clients becomes concerned with any relationship K&F may have with particular clients, companies, or individuals, we encourage the Joint Clients to bring those concerns to our attention. If a potential conflict arises, either among the Joint Clients or between one or more of the Joint Clients and other K&F clients that may impact our ability to fully represent the Joint Clients with respect to the Legal Services, we will promptly bring that conflict to the attention of the Joint Clients.

In the event the Joint Clients become adverse to each other with respect to the Legal Services, each of the Joint Clients agree that they shall not seek disqualification of K&F from representation of the other Joint Client with respect to the Legal Services on the basis of this Joint Representation Agreement, K&F’s access to confidential information obtained from the Joint Clients in connection with the Legal Services, or K&F’s separate representation of any of the Joint Clients on matters unrelated to the Legal Services; provided, however, that nothing in this Joint Representation Agreement authorizes K&F to represent any of the Joint Clients in any action brought by or against any of the other Joint Clients.

2. Confidentiality of Communications and Work Product

It is in the Joint Clients’ interest to preserve confidentiality of all communications and work product related to the Legal Services. If any of the Joint Clients discloses such communications or work product to persons or entities that are not a party to this Joint Representation Agreement, it jeopardizes the privileged and confidential nature of that communication or work product. Accordingly, we advise the Joint Clients to take care not to disclose privileged information or work product to any person or entity that is not a party to this Joint Representation Agreement.

The Joint Clients understand and acknowledge that any communications between each of the Joint Clients and K&F regarding the Legal Services may not be kept confidential from the other Joint Clients. In addition, should any future dispute among you concerning the matter on which you have engaged us to represent you lead to litigation, the attorney-client privilege may not protect communications that were commonly shared.

If any of the Joint Clients wishes to communicate confidentially with K&F about matters outside the scope of the Legal Services, that client should: 1) exclude all third parties from the communication, including the other members of the Joint Clients, and 2) ensure K&F is aware the correspondence is on behalf of the individual company or organization and is not related to the Legal Services subject to this Joint Representation Agreement.

Through this Joint Representation Agreement, the Joint Clients authorize K&F to engage in confidential communications with EQ Research LLC to obtain litigation support with respect to the Legal Services. K&F understands it is the intent of the Joint Clients that all communications and work product that are developed by, or shared with, EQ Research LLC related to the Legal Services shall be confidential and subject to attorney-client privilege.

3. Termination of K&F’s Representation

EBCE, MCE, MBCP, PCE, Pioneer, SVCE, or SCP may terminate K&F’s representation of that Joint Client at any time and for any reason. K&F may terminate its representation of the
Joint Clients or one of EBCE, MCE, MBCP, PCE, Pioneer, SVCE, or SCP at any time and for any reason, subject to the California State Bar Rules of Professional Conduct.

4. Miscellaneous

This letter is the entire agreement between the Joint Clients and K&F concerning the joint representation of the Joint Clients in the provision of Legal Services. This Joint Representation Agreement and the scope of Legal Services provided under it may be amended from time to time by mutual agreement among K&F and the Joint Clients. California law will govern this agreement and any subsequent amendments.

5. Conclusion

If the terms of K&F’s representation as explained in this Joint Representation Agreement are satisfactory, please execute a copy of this letter as indicated and return it to me. Please feel free to contact me if you have any questions.

We look forward to our representation of the Joint Clients.

Sincerely,

Tim Lindl, Partner
Keyes & Fox LLP
EBCE, MCE, MBCP, PCE, Pioneer, SVCE, and SCP authorize K&F to represent their interests with respect to the Legal Services. Each of the Joint Clients also acknowledge, by signing this letter, that they have had the opportunity to consult with other counsel about the consequences of joint representation and that K&F recommends that you do so. By signing this letter, the signatory affirms that he or she understands and agrees to bind his or her company to the terms set forth in this Joint Representation Agreement. This Joint Representation Agreement shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until each of the Joint Clients have returned a signed copy of this letter.

EAST BAY COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of East Bay Community Energy.

By: 

Nick Chaset

Title: Chief Executive Officer

Date: 9/4/18

MARIN CLEAN ENERGY AUTHORITY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Marin Clean Energy Authority.

By: 

Dawn Weisz

Title: Chief Executive Officer

Date: 

MONTEREY BAY COMMUNITY POWER

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Monterey Bay Community Power.

By: 

Tom Habashi

Title: Chief Executive Officer

Date: 
EBCE, MCE, MBCP, PCE, Pioneer, SVCE, and SCP authorize K&F to represent their interests with respect to the Legal Services. Each of the Joint Clients also acknowledge, by signing this letter, that they have had the opportunity to consult with other counsel about the consequences of joint representation and that K&F recommends that you do so. By signing this letter, the signatory affirms that he or she understands and agrees to bind his or her company to the terms set forth in this Joint Representation Agreement. This Joint Representation Agreement shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until each of the Joint Clients have returned a signed copy of this letter.

EAST BAY COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of East Bay Community Energy.

By: __________________________

Nick Chaset

Title: Chief Executive Officer

Date: ________________________

MARIN CLEAN ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Marin Clean Energy.

By: __________________________

Dawn Weisz

Title: Chief Executive Officer

Date: 9-4-18

MONTEREY BAY COMMUNITY POWER

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Monterey Bay Community Power.

By: __________________________

Tom Habashi

Title: Chief Executive Officer

Date: ________________________
EBCE, MCE, MBCP, PCE, Pioneer, SVCE, and SCP authorize K&F to represent their interests with respect to the Legal Services. Each of the Joint Clients also acknowledge, by signing this letter, that they have had the opportunity to consult with other counsel about the consequences of joint representation and that K&F recommends that you do so. By signing this letter, the signatory affirms that he or she understands and agrees to bind his or her company to the terms set forth in this Joint Representation Agreement. This Joint Representation Agreement shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until each of the Joint Clients have returned a signed copy of this letter.

EAST BAY COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of East Bay Community Energy.

By: ______________________
    Nick Chaset
    Title: Chief Executive Officer
    Date: ______________________

MARIN CLEAN ENERGY AUTHORITY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Marin Clean Energy Authority.

By: ______________________
    Dawn Weisz
    Title: Chief Executive Officer
    Date: ______________________

MONTEREY BAY COMMUNITY POWER

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Monterey Bay Community Power.

By: ______________________
    Tom Habashi
    Title: Chief Executive Officer
    Date: 9/11/2018
PENINSULA CLEAN ENERGY AUTHORITY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Peninsula Clean Energy Authority.

By: [Signature]

Jan Pepper

Title: Chief Executive Officer

Date: 8/27/18

PIONEER COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Pioneer Community Energy.

By: [Signature]

Jenine Windeshausen

Title: Executive Director

Date: __________________

SILICON VALLEY CLEAN ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Silicon Valley Clean Energy.

By: [Signature]

Girish Balachandran

Title: Chief Executive Officer

Date: __________________
PENINSULA CLEAN ENERGY AUTHORITY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Peninsula Clean Energy Authority.

By: ______________________

Jan Pepper

Title: Chief Executive Officer

Date: _________________

PIONEER COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Pioneer Community Energy.

By: ______________________

Jenine Windeshausen

Title: Executive Director

Date: August 28, 2018

SILICON VALLEY CLEAN ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Silicon Valley Clean Energy.

By: ______________________

Girish Balachandran

Title: Chief Executive Officer

Date: ______________________
PENINSULA CLEAN ENERGY AUTHORITY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Peninsula Clean Energy Authority.

By: ________________________

Jan Pepper

Title: Chief Executive Officer

Date: ________________________

PIONEER COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Pioneer Community Energy.

By: ________________________

Jenine Windeshausen

Title: Executive Director

Date: ________________________

SILICON VALLEY CLEAN ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Silicon Valley Clean Energy.

By: ________________________

Girish Balachandran

Title: Chief Executive Officer

Date: 9/20/2018
SONOMA CLEAN POWER AUTHORITY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Sonoma Clean Power Authority.

By: __________________________

Geof Syphers

Title: Chief Executive Officer

Date: 8-30-2018

Approved as to form: ______________
February 7, 2019

East Bay Community Energy
Nick Chaset
Chief Executive Officer
1111 Broadway, 3rd Floor
Oakland, California 94607

San José Clean Energy
Lori Mitchell
Director
200 E. Santa Clara Street, 14th Floor
San José, California 95113

Marin Clean Energy
Dawn Weisz
Chief Executive Officer
1125 Tamalpais Avenue
San Rafael, California 94901

Silicon Valley Clean Energy
Girish Balachandran
Chief Executive Officer
333 W. El Camino Real, Suite 290
Sunnyvale, California 94087

Peninsula Clean Energy Authority
Jan Pepper
Chief Executive Officer
2075 Woodside Road
Redwood City, California 94061

Sonoma Clean Power
Geof Syphers
Chief Executive Officer
50 Santa Rosa Avenue, 5th Floor
Santa Rosa, California 95404

Pioneer Community Energy
Jenine Windeshausen
Executive Director
2976 Richardson Drive
Auburn, California 95603


Keyes & Fox LLP (“K&F”) is delighted that East Bay Community Energy (“EBCE”), Marin Clean Energy (“MCE”), Peninsula Clean Energy Authority (“PCE”), Pioneer Community Energy (“Pioneer”), San José Clean Energy (“SJCE”), Silicon Valley Clean Energy (“SVCE”), and Sonoma Clean Power (collectively, “Joint Clients”) have decided to engage K&F to provide legal representation before the California Public Utilities Commission (“Commission”) in Application 18-12-009 (the “Legal Services”). This letter describes the basis of the attorney-client relationship between K&F and the Joint Clients with respect to the Legal Services. The terms and conditions regarding how K&F will bill for the Legal Services are set forth in an
engagement letter or other agreement with each of the Joint Clients. It is the intent of the Joint Clients and K&F that this Joint Representation Agreement be effective as of January 10, 2019.

1. Joint Representation

K&F will represent each of the Joint Clients with respect to the Legal Services, and all appearances and filings made in connection with the Legal Services shall be made in the name of all of the Joint Clients or the “Joint CCAs”. By executing this Joint Representation Agreement, each of the Joint Clients agrees that K&F will take direction from Jeremy Waen at PCE or Todd Edmister at EBCE in this matter. In addition, each of you agrees that if any of EBCE, MCE, PCE, Pioneer, SJCE, SVCE, or SCP requests in writing – for any reason or for no reason – to withdraw from this Joint Representation Agreement, that withdrawal would be effective immediately, and from that point forward, K&F would not have an attorney-client relationship or further attorney-client obligations with the withdrawn party with respect to the Legal Services.

K&F will coordinate projects with either Jeremy Waen at PCE and/or Todd Edmister at EBCE, as the designated representatives of the Joint Clients for the Legal Services, or with whomever Mr. Waen or Mr. Edmister may specifically delegate that authority. We understand that Mr. Waen and/or Mr. Edmister have the authority to make decisions on behalf of the Joint Clients in connection with the Legal Services proposed, and we are relying on that understanding.

Because K&F will be representing multiple clients in this engagement, the applicable rules of professional conduct require that we inform you of actual and potential conflicts of interest with respect to joint representation, and that we obtain informed, written consent from each of the Joint Parties agreeing to the joint representation.

K&F has run a conflict check as it relates to the Legal Services. Based on the information we have been provided, we do not believe representation of the Joint Clients with respect to the Legal Services involves an actual conflict of interest between any of the Joint Clients. If any one of the Joint Clients is aware of an actual conflict of interest as between them, please let K&F know immediately.

Even though there may be no actual conflict, there are potential conflicts. K&F currently represents MCE, Monterey Bay Community Power (“MBCP”), PCE, Pioneer, SCP, SVCE, Valley Clean Energy Alliance (“VCEA”) and other organizations and companies in California’s energy industry in matters that do not pertain to the Legal Services. In addition, K&F has provided, or continues to provide, representation to MBCP, MCE, PCE, Pioneer, SCP, SVCE, and VCEA in a number of dockets before the Commission in which one or more of the Joint Clients have been, or continue to be, a party or participant.

Differences in respective financial resources, prior experience, interests, and objectives of the Joint Clients could make one approach to K&F’s responsibilities more favorable to one of the Joint Clients than to the others, or could lead to disputes among the Joint Clients. For example, if K&F was to represent only one client, rather than all the Joint Clients, K&F might be able to obtain more favorable treatment for that one. Because K&F will be representing all the Joint Clients, it will be necessary to balance the interests of the Joint Clients rather than prioritizing the interests of only one client.
If any of the Joint Clients becomes concerned with any relationship K&F may have with particular clients, companies, or individuals, we encourage the Joint Clients to bring those concerns to our attention. If a potential conflict arises, either among the Joint Clients or between one or more of the Joint Clients and other K&F clients that may impact our ability to fully represent the Joint Clients with respect to the Legal Services, we will promptly bring that conflict to the attention of the Joint Clients.

In the event the Joint Clients become adverse to each other with respect to the Legal Services, each of the Joint Clients agree that they shall not seek disqualification of K&F from representation of the other Joint Client with respect to the Legal Services on the basis of this Joint Representation Agreement, K&F’s access to confidential information obtained from the Joint Clients in connection with the Legal Services, or K&F’s separate representation of any of the Joint Clients on matters unrelated to the Legal Services; provided, however, that nothing in this Joint Representation Agreement authorizes K&F to represent any of the Joint Clients in any action brought by or against any of the other Joint Clients.

2. Confidentiality of Communications and Work Product

It is in the Joint Clients’ interest to preserve confidentiality of all communications and work product related to the Legal Services. If any of the Joint Clients discloses such communications or work product to persons or entities that are not a party to this Joint Representation Agreement, it jeopardizes the privileged and confidential nature of that communication or work product. Accordingly, we advise the Joint Clients to take care not to disclose privileged information or work product to any person or entity that is not a party to this Joint Representation Agreement.

The Joint Clients understand and acknowledge that any communications between each of the Joint Clients and K&F regarding the Legal Services may not be kept confidential from the other Joint Clients. In addition, should any future dispute among you concerning the matter on which you have engaged us to represent you lead to litigation, the attorney-client privilege may not protect communications that were shared.

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Through this Joint Representation Agreement, the Joint Clients authorize K&F to engage in confidential communications with EQ Research LLC to obtain litigation support with respect to the Legal Services. K&F understands it is the intent of the Joint Clients that all communications and work product that are developed by, or shared with, EQ Research LLC related to the Legal Services shall be confidential and subject to attorney-client privilege.

3. Termination of K&F’s Representation

EBCE, MCE, PCE, Pioneer, SJCE, SVCE, or SCP may terminate K&F’s representation of that Joint Client at any time and for any reason. K&F may terminate its representation of the
Joint Clients or one of EBCE, MCE, PCE, Pioneer, SJCE, SVCE, or SCP at any time and for any reason, subject to the California State Bar Rules of Professional Conduct.

4. Miscellaneous

This letter is the entire agreement between the Joint Clients and K&F concerning the joint representation of the Joint Clients in the provision of Legal Services. This Joint Representation Agreement and the scope of Legal Services provided under it may be amended from time to time by mutual agreement among K&F and the Joint Clients. California law will govern this agreement and any subsequent amendments.

5. Conclusion

If the terms of K&F’s representation as explained in this Joint Representation Agreement are satisfactory, please execute a copy of this letter as indicated and return it to me. Please feel free to contact me if you have any questions.

We look forward to our representation of the Joint Clients.

Sincerely,

Tim Lindl, Partner
Keyes & Fox LLP
EBCE, MCE, PCE, Pioneer, SJCE, SVCE, and SCP authorize K&F to represent their interests with respect to the Legal Services. Each of the Joint Clients also acknowledge, by signing this letter, that they have had the opportunity to consult with other counsel about the consequences of joint representation and that K&F recommends that you do so. By signing this letter, the signatory affirms that he or she understands and agrees to bind his or her company to the terms set forth in this Joint Representation Agreement. This Joint Representation Agreement shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until each of the Joint Clients have returned a signed copy of this letter.

EAST BAY COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of East Bay Community Energy.

By: ______________________

Nick Chaset
Title: Chief Executive Officer
Date: ______________________

MARIN CLEAN ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Marin Clean Energy.

By: ______________________

Dawn Weisz
Title: Chief Executive Officer
Date: ______________________

PENINSULA CLEAN ENERGY AUTHORITY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Peninsula Clean Energy Authority.

By: ______________________

Jan Pepper
Title: Chief Executive Officer
Date: ______________________
PIONEER COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Pioneer Community Energy.

By: ______________________

Jenine Windeshausen
Title: Executive Director
Date: ______________________

SAN JOSE CLEAN ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of San José Clean Energy.

By: ______________________

Lori Mitchell Balachandran
Title: Director
Date: ______________________

SILICON VALLEY CLEAN ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Silicon Valley Clean Energy.

By: ______________________

Girish Balachandran
Title: Chief Executive Officer
Date: ______________________
SONOMA CLEAN POWER

I have read the foregoing engagement letter, understand it and agree to it on behalf of Sonoma Clean Power.

By: ______________________

Geof Syphers

Title: Chief Executive Officer

Date: ________________

Approved as to form by SCP:

________________________

By:

Title:
February 1, 2019

East Bay Community Energy  
Nick Chaset  
Chief Executive Officer  
1111 Broadway, 3rd Floor  
Oakland, California 94607

Peninsula Clean Energy Authority  
Jan Pepper  
Chief Executive Officer  
2075 Woodside Road  
Redwood City, California 94061

Sonoma Clean Power  
Geof Syphers  
Chief Executive Officer  
50 Santa Rosa Avenue, 5th Floor  
Santa Rosa, California 95404

Valley Clean Energy Alliance  
Mitch Sears  
Interim General Manager  
604 2nd Street  
Davis, California 95616

Pioneer Community Energy  
Jenine Windeshausen  
Executive Director  
2976 Richardson Drive  
Auburn, California 95603

San José Clean Energy  
Lori Mitchell  
Director  
200 E. Santa Clara Street, 14th Floor  
San José, California 95113

Silicon Valley Clean Energy  
Girish Balachandran  
Chief Executive Officer  
333 W. El Camino Real, Suite 290  
Sunnyvale, California 94087


Keyes & Fox LLP (“K&F”) is delighted that East Bay Community Energy (“EBCE”), Valley Clean Energy Alliance (“VCE”), Peninsula Clean Energy Authority (“PCE”), Pioneer Community Energy (“Pioneer”), San José Clean Energy (“SJCE”), Silicon Valley Clean Energy (“SVCE”), and Sonoma Clean Power (“SCP”) (collectively, “Joint Clients”) have decided to engage K&F to provide legal representation before the California Public Utilities Commission (“Commission”) in Investigation 15-08-019 (the “Legal Services”). This letter describes the basis of the attorney-client relationship between K&F and the Joint Clients with respect to the Legal Services. The terms and conditions regarding how K&F will bill for the Legal Services are set forth in an engagement letter or other agreement with each of the Joint Clients.
1. Joint Representation

K&F will represent each of the Joint Clients with respect to the Legal Services, and all appearances and filings made in connection with the Legal Services shall be made in the name of all of the Joint Clients or the “Joint CCAs”. By executing this Joint Representation Agreement, each of the Joint Clients agrees that if any of EBCE, VCE, PCE, Pioneer, SJCE, SVCE, or SCP requests in writing – for any reason or for no reason – to withdraw from this Joint Representation Agreement, that withdrawal would be effective immediately, and from that point forward, K&F would not have an attorney-client relationship or further attorney-client obligations with the withdrawn party with respect to the Legal Services.

Because K&F will be representing multiple clients in this engagement, the applicable rules of professional conduct require that we inform you of actual and potential conflicts of interest with respect to joint representation, and that we obtain informed, written consent from each of the Joint Parties agreeing to the joint representation.

K&F has run a conflict check as it relates to the Legal Services. Based on the information we have been provided, we do not believe representation of the Joint Clients with respect to the Legal Services involves an actual conflict of interest between any of the Joint Clients. If any one of the Joint Clients is aware of an actual conflict of interest as between the joint, please let K&F know immediately.

Even though there may be no current conflict between the Joint Clients, potential conflicts could arise. K&F currently represents EBCE, VCE, PCE, Pioneer, SCP, SVCE, SJCE, MCE and other organizations and companies in California’s energy industry in matters that do not pertain to the Legal Services. In addition, K&F has provided, or continues to provide, representation to several of EBCE, VCE, PCE, Pioneer, SCP, SVCE, SJCE, MCE in two dockets before the Commission.

Differences in respective financial resources, prior experience, interests, and objectives of the Joint Clients could make one approach to K&F’s responsibilities more favorable to one of the Joint Clients than to the others, or could lead to disputes among the Joint Clients. For example, if K&F was to represent only one client, rather than all the Joint Clients, K&F might be able to obtain more favorable treatment for that one. Because K&F will be representing all the Joint Clients, it will be necessary to balance the interests of the Joint Clients rather than prioritizing the interests of only one client.

If any of the Joint Clients becomes concerned with any relationship K&F may have with particular clients, companies, or individuals, we encourage the Joint Clients to bring those concerns to our attention. If a potential conflict arises, either among the Joint Clients or between one or more of the Joint Clients and other K&F clients that may impact our ability to fully represent the Joint Clients with respect to the Legal Services, we will promptly bring that conflict to the attention of the Joint Clients.

In the event the Joint Clients become adverse to each other with respect to the Legal Services, each of the Joint Clients agree that they shall not seek disqualification of K&F from representation of the other Joint Client with respect to the Legal Services on the basis of this Joint Representation Agreement, K&F’s access to confidential information obtained from the Joint Clients in connection with the Legal Services, or K&F’s separate representation of any of
the Joint Clients on matters unrelated to the Legal Services; provided, however, that nothing in this Joint Representation Agreement authorizes K&F to represent any of the Joint Clients in any action brought by or against any of the other Joint Clients.

2. **Confidentiality of Communications and Work Product**

   It is in the Joint Clients’ interest to preserve confidentiality of all communications and work product related to the Legal Services. If any of the Joint Clients discloses such communications or work product to persons or entities that are not a party to this Joint Representation Agreement, it jeopardizes the privileged and confidential nature of that communication or work product. Accordingly, we advise the Joint Clients to take care not to disclose privileged information or work product to any person or entity that is not a party to this Joint Representation Agreement. To the extent the Joint Clients would like to coordinate advocacy with other community choice aggregators that will be active in 1.15-08-019, we strongly encourage the Joint Clients to copy Kevin Fox, or another K&F attorney, on any correspondence so that it does not jeopardize the privileged nature of such communication.

   The Joint Clients understand and acknowledge that any communications between each of the Joint Clients and K&F regarding the Legal Services may not be kept confidential from the other Joint Clients. In addition, should any future dispute among you concerning the matter on which you have engaged us to represent you lead to litigation, the attorney-client privilege may not protect communications that were shared.

   If any of the Joint Clients wishes to communicate confidentially with K&F about matters outside the scope of the Legal Services, that client should: 1) exclude all third parties from the communication, including the other members of the Joint Clients, and 2) ensure K&F is aware the correspondence is on behalf of the individual company or organization and is not related to the Legal Services subject to this Joint Representation Agreement.

   Through this Joint Representation Agreement, the Joint Clients authorize K&F to engage in confidential communications with EQ Research LLC to obtain litigation support with respect to the Legal Services. K&F understands it is the intent of the Joint Clients that all communications and work product that are developed by, or shared with, EQ Research LLC related to the Legal Services shall be confidential and subject to attorney-client privilege.

3. **Termination of K&F’s Representation**

   EBCE, VCE, PCE, Pioneer, SJCE, SVCE, or SCP may terminate K&F’s representation of that Joint Client at any time and for any reason. K&F may terminate its representation of the Joint Clients or one of EBCE, VCE, PCE, Pioneer, SJCE, SVCE, or SCP at any time and for any reason, subject to the California State Bar Rules of Professional Conduct.

4. **Miscellaneous**

   This letter is the entire agreement between the Joint Clients and K&F concerning the joint representation of the Joint Clients in the provision of Legal Services. This Joint Representation Agreement and the scope of Legal Services provided under it may be amended from time to time by mutual agreement among K&F and the Joint Clients. California law will govern this agreement and any subsequent amendments.
5. Conclusion

If the terms of K&F’s representation as explained in this Joint Representation Agreement are satisfactory, please execute a copy of this letter as indicated and return it to me. Please feel free to contact me if you have any questions.

We look forward to our representation of the Joint Clients.

Sincerely,

__________________

Kevin Fox, Partner
Keyes & Fox LLP
EBCE, VCE, PCE, Pioneer, SJCE, SVCE, and SCP authorize K&F to represent their interests with respect to the Legal Services. Each of the Joint Clients also acknowledge, by signing this letter, that they have had the opportunity to consult with other counsel about the consequences of joint representation and that K&F recommends that you do so. By signing this letter, the signatory affirms that he or she understands and agrees to bind his or her company to the terms set forth in this Joint Representation Agreement. This Joint Representation Agreement shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until each of the Joint Clients have returned a signed copy of this letter.

**EAST BAY COMMUNITY ENERGY**

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of East Bay Community Energy.

By: ______________________

Nick Chaset

Title: Chief Executive Officer

Date: ________________

**VALLEY CLEAN ENERGY**

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Marin Clean Energy.

By: ______________________

Mitch Sears

Title: Interim General Manager

Date: ________________

**PENINSULA CLEAN ENERGY AUTHORITY**

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Peninsula Clean Energy Authority.

By: ______________________

Jan Pepper

Title: Chief Executive Officer

Date: ________________
PIioneer COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Pioneer Community Energy.

By: ______________________

Jenine Windeshausen

Title: Executive Director

Date: ____________________

SAN JOSE CLEAN ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of San José Clean Energy.

By: ______________________

Lori Mitchell Balachandran

Title: Director

Date: ____________________

SILICON VALLEY CLEAN ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Silicon Valley Clean Energy.

By: ______________________

Girish Balachandran

Title: Chief Executive Officer

Date: ____________________

SONOMA CLEAN POWER

I have read the foregoing engagement letter, understand it and agree to it on behalf of Sonoma Clean Power.

By: ______________________

Geof Syphers

Title: Chief Executive Officer
LEGAL SERVICES AGREEMENT BETWEEN
THE EAST BAY COMMUNITY ENERGY AUTHORITY
AND KEYES & FOX LLP

THIS AGREEMENT is entered into this 14th day of September, 2018, by and between the East Bay Community Energy Authority, a joint powers authority ("Authority" or "EBCE"), and Keyes & Fox, a Limited Liability Partnership ("Special Counsel") (collectively referred to as the "Parties").

RECITALS:

A. Authority is an independent joint powers authority duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") with the power to conduct its business and enter into agreements.

B. Special Counsel possesses the skill, experience, ability, background, certification and knowledge to provide the legal services described in this Agreement pursuant to the terms and conditions described herein.

C. Authority and Special Counsel desire to enter into an agreement for legal services representing EBCE, as a member of the joint clients listed in the Joint Representation Agreement, attached hereto as Exhibit F, in Pacific Gas & Electric Company's Application 18-06-001 before the California Public Utilities Commission, upon the terms and conditions herein.

NOW, THEREFORE, for good and valuable consideration, the amount and sufficiency of which are hereby acknowledged, the Parties mutually agree as follows:

1. TERM

The term of this Agreement commences on August 15, 2018 and will extend through the completion of the services to be performed by Special Counsel, as described in Exhibit A, subject to the Termination provisions in Section 19 of this Agreement.

2. SERVICES TO BE PERFORMED

Special Counsel shall perform each and every service set forth in Exhibit A, which is attached hereto and incorporated herein by this reference.
3. **COMPENSATION TO CONSULTANT**

EBCE will compensate Special Counsel for services performed pursuant to this Agreement in a total amount not to exceed eight thousand dollars ($8,000.00) based on the rates and terms set forth in Exhibit B, which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

Special Counsel and Authority agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE**

Special Counsel agrees to perform all services required by this Agreement in a manner commensurate with the prevailing standards of similar specially trained professionals in the San Francisco Bay Area and agrees that all services will be performed by qualified and experienced personnel. Special Counsel represents and warrants that all personnel providing legal services have valid and active licenses to practice law. Special Counsel agrees that should it need to represent Authority in any California state court, personnel representing Authority are active members of the State Bar of California as required.

6. **INDEPENDENT PARTIES**

It is understood and agreed that Special Counsel, in the performance of the work and services agreed to be performed by Special Counsel, is and will continue to be an independent contractor and not an agent or employee of EBCE; and as an independent contractor, Special Counsel will not obtain any rights to retirement benefits or other benefits that accrue to EBCE’s employees, and Special Counsel hereby expressly waives any claim it may have to any such rights.

7. **NO RECOERCSE AGAINST CONSTITUENT MEMBERS OF AUTHORITY**

Authority is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated December 1, 2016, and is a public entity separate from its constituent members. Authority is and will continue to be solely responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Special Counsel agrees that it will have no rights and cannot make any claims, take any actions or assert any remedies against any of Authority’s constituent members in connection with this Agreement.

8. **NON-DISCRIMINATION**

Special Counsel agrees that it will not harass or discriminate against a job applicant, an Authority employee, or Special Counsel’s employee on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, sexual
orientation, or any other protected class. Special Counsel agrees that any and all violations of this provision will constitute a material breach of this Agreement.

9. HOLD HARMLESS AND INDEMNIFICATION

Special Counsel will, to the fullest extent allowed by law and without limitation of the provisions of this Agreement related to insurance, with respect to all services performed in connection with the Agreement, indemnify, defend, and hold harmless the Authority and its members, officers, officials, Directors, agents, employees and volunteers from and against any and all liability, claims, actions, causes of action, demands, damages and losses whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, whether physical, emotional, consequential or otherwise, arising out of, pertaining to, or related to the performance of this Agreement by Special Counsel or Special Counsel's employees, officers, officials, agents or subcontractors. Such costs and expenses will include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation. The acceptance of the Services by Authority will not operate as a waiver of the right of indemnification. The provisions of this Section survive the completion of the Services or termination of this Agreement.

10. INSURANCE

10.1 Special Counsel must procure, maintain and comply with the insurance requirements in Exhibit C throughout the full Term of this Agreement. Special Counsel must provide proof of insurance either in the form of a certificate of insurance or, if requested by EBCE, a copy of the insurance policy, prior to performing any work under this Agreement.

10.2 Special Counsel agrees not to terminate any of the required insurance coverage during the term of this Agreement. Special Counsel must give EBCE ten (10) days written notice and obtain EBCE's written approval prior to making any modifications in the insurance coverage.

10.3 Special Counsel must either include subconsultants under its insurance policies or require each subconsultant to comply with the insurance obligations in Exhibit C.

11. CONFLICT OF INTEREST

11.1 Special Counsel warrants that it presently has no interest other than those previously disclosed in conflict waivers, executed copies of which appear in Exhibit D, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it will not employ any person having such an interest.

11.2 Special Counsel understands that Authority is a public agency subject to compliance with the Political Reform Act and various other conflict of interest laws. Special Counsel agrees to advise Authority immediately if any conflict arises and understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Special Counsel to make certain governmental decisions or serve in a staff
capacity, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

11.3 Special Counsel shall avoid all conflict of interest or appearance of conflict of interest in performance of this Agreement. As of the date of entering into this Agreement, Special Counsel's employees assigned to perform services as specified in Exhibit E of this Agreement ("Special Counsel's Assigned Employees") shall not be required to complete and file a Form 700 with EBCE's Clerk. In the event that the EBCE subsequently determines to require Special Counsel's Assigned Employees to complete and file a Form 700 with EBCE's Clerk, EBCE will notify Special Counsel in writing of such requirement, including without limitation, instructions regarding the categories of economic interests subject to disclosure on the Form 700 ("Form 700 Notice"). Special Counsel agrees that upon notification, Special Counsel will cause Special Counsel's Assigned Employees to complete and file the Form 700 with EBCE's Clerk, in accordance with the instructions specified in the Form 700 Notice, no later than thirty (30) days of the date of the Form 700 Notice.

12. PROHIBITION AGAINST ASSIGNMENT

The parties agree that the expertise and experience of Special Counsel are material considerations for this Agreement. Special Counsel agrees not to assign or to transfer any interest in this Agreement nor the performance of any of Special Counsel's obligations in this agreement, without the prior written consent of EBCE, and any attempt by Special Counsel to so assign this Agreement or any rights, duties or obligations arising hereunder will be void and of no effect.

13. SUBCONTRACTOR APPROVAL

Unless prior written consent from Authority is obtained, Special Counsel will not use subcontractors. In the event that Authority approves use of subcontractors, any subcontractors will be subject to the requirements of this Agreement, including without limitation, the conflict of interest provisions, the insurance provisions and the indemnity provisions.

14. INVOICING AND PAYMENT

14.1 In order to request payment, Special Counsel must submit monthly invoices to the Authority describing the services performed and the applicable summary of the work performed during that period. The invoice must detail the personnel who performed the services, hours worked and task(s) performed. Special counsel must bill in increments no greater than 1/10 of an hour. Each invoice must include the total budget allocated to the Agreement and the amount of the budget remaining after deducting the amount of the invoice.

14.2 Administrative, overhead, secretarial time or overtime, word processing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. However, the rates listed above do not include minor expenses directly related to an Authority matter, including postage, photocopying, printing, faxing, and messenger services, or costs for travel. Travel expenses will only be reimbursed to the extent consistent with Authority's travel policy. All out of pocket reimbursable expenses in excess of $50 must be authorized in advance by the Authority and receipts must
be furnished with monthly invoices. Authority will be responsible only for the actual cost of any reimbursable expenses with no markup.

14.3 In the event of a dispute between Authority and Special Counsel regarding any invoice, the parties agreed to meet and confer and try to resolve the dispute. If unable to resolve the dispute, the Parties agree to comply with the State Bar of California's guidelines and dispute resolution mechanism related to legal fees.

15. RECORDS

15.1 Special Counsel must maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to EBCE for a minimum period of five (5) years, or for any longer period required by law, from the date of final payment to Special Counsel pursuant to this Agreement.

15.2 Special Counsel must maintain all documents and records that demonstrate performance under this Agreement for a minimum period of five (5) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

15.3 Any records or documents required to be maintained pursuant to this Agreement must be made available for inspection or audit at no cost to EBCE, at any time during regular business hours, upon written request by the EBCE. Copies of such documents must be provided to EBCE for inspection at EBCE's offices when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Special Counsel's address indicated for receipt of notices in this Agreement.

15.4 Where EBCE has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Special Counsel's business, EBCE may, by written request, require that custody of the records be given to EBCE and that the records and documents be maintained in the EBCE General Counsel's office. Access to such records and documents will be granted to any party authorized by Special Counsel, Special Counsel's representatives, or Special Counsel's successor-in-interest.

15.5 EBCE owns all work product prepared by Special Counsel under this Agreement, including without limitation, all research memoranda, contracts, underlying research, legal opinions, and pleadings.

16. PARTY REPRESENTATIVES

The General Counsel, or his/her designee, represents the Authority in all matters pertaining to the services to be performed under this Agreement. Tim Lindl represents Special Counsel in all matters pertaining to the services to be performed under this Agreement.
17. **CONFIDENTIAL INFORMATION**

Special Counsel shall maintain in confidence and not disclose to any third-party or use in any manner not required or authorized under this Agreement any and all of Authority's proprietary or confidential information provided to Special Counsel.

18. **NOTICES**

Any notices required to be given under this Agreement must be made in writing and may be delivered a) personally, in which case they are effective upon receipt; b) by U.S. Mail, in which case they are effective three (3) days following deposit in the U.S. Mail, unless accompanied by a return receipt in which case, they are effective upon the date on the receipt; or c) by electronic mail, in which case they are effective upon confirmation of receipt, and if no confirmation of receipt, they are effective one day after transmission, providing that a hard copy is also sent via U.S. mail. All notices must be sent to the addresses below:

**EBCE**

Attn: Leah Goldberg, General Counsel  
1111 Broadway, 3rd Floor  
Oakland, CA 94607  
Email: lgoldberg@ebce.org  
Phone: (510) 838-5266

**Special Counsel**

Attn: Tim Lindl, Partner  
436 14th Street, Suite 1305  
Oakland, CA 94612  
Email: tlindl@keyesfox.com  
Phone: (510) 314-8385

19. **TERMINATION**

19.1 EBCE has the right to terminate this Agreement, without cause, by giving not less than seven (7) days' written notice of termination.

19.2 If Special Counsel fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, EBCE may terminate this Agreement immediately upon written notice.

19.3 EBCE's General Counsel is empowered to terminate this Agreement on behalf of EBCE.

19.4 In the event of termination, Special Counsel must deliver to the EBCE's General Counsel, at no cost to EBCE, copies of all reports, documents, and other work performed by Special Counsel under this Agreement within five (5) business days of the date of termination.
20. **COMPLIANCE**

Special Counsel must comply with all applicable federal, state and local laws and regulations.

21. **CONFLICT OF LAW**

This Agreement will be interpreted under and enforced by the laws of the State of California. Any suits brought pursuant to this Agreement shall be filed with the Superior Court of the County of Alameda, State of California, or if appropriate, the Federal District Court sitting in San Francisco.

22. **ADVERTISEMENT**

Special Counsel will not reference or disclose to any third parties that it is working with authority without Authority's express written approval.

23. **WAIVER**

A waiver by Authority of any breach of any term, covenant, or condition contained herein will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or a different character.

24. **INTEGRATED AGREEMENT**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the Parties, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant will be held to vary the provisions hereof. In the event that the terms specified in any of the Exhibits attached hereto conflict with any of the terms specified in the body of this Agreement, the terms specified in the body of this Agreement will control. Any modification of this Agreement will be effective only by a written document signed by both Authority and Special Counsel.

25. **AUTHORITY**

The individual(s) executing this Agreement represent and warrant that they have the legal authority to do so on behalf of their respective legal entities.

26. **SEVERABILITY**

If a court of competent jurisdiction holds any Section or part of this Agreement to be invalid or unenforceable for any reason and the scope of work can still be performed, the Parties agree to sever the invalid or unenforceable Section(s) from this Agreement and that all remaining Sections or parts of this Agreement will continue to be enforceable.
27. **CAPTIONS AND TERMS**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

28. **COUNTERPARTS**

This Agreement may be signed in counterparts, each of which will be one and same agreement and will be binding upon the party that signed it.

**IN WITNESS WHEREOF**, the parties have caused the Agreement to be executed as of the date set forth above.

---

**SPECIAL COUNSEL**

\[Signature\]

By: Tim Lindl
Title: Partner
Date: 7/14/2018

---

**EAST BAY COMMUNITY ENERGY AUTHORITY**

A Joint Powers Authority

\[Signature\]

By: [Signature]
Title: [Title]
Date: 9/17/18

---

**APPROVED AS TO FORM:**

\[Signature\]

Leah S. Goldberg, General Counsel
Exhibit A

Scope of Services

Special Counsel will represent Authority, as a member of the joint clients listed in the Joint Representation Agreement, Exhibit F, with respect to; Pacific Gas & Electric Company's Application 18-06-001 before the California Public Utilities Commission

Additional Services:

Special Counsel will not provide additional services outside of the services identified in Exhibit A, unless it obtains advance written authorization from Authority's General Counsel prior to commencement of any additional services.
Exhibit B

Compensation

Authority will compensate Special Counsel for legal services in accordance with the terms and conditions of this Agreement based on the rates and compensation schedule set forth below. Compensation will be calculated based on the hourly rates set forth below.

**ATTORNEYS**

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<tr>
<td>Kevin Fox</td>
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<td>Jason Keyes</td>
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<td>Jacob Schlesinger</td>
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<td>Kathleen Kapla</td>
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**NON-ATTORNEYS**

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<tr>
<td>Blake Elder</td>
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Exhibit C

Insurance Requirements

A. Minimum Scope and Limits of Insurance. Special Counsel must procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of One Million Dollars ($1,000,000.00) per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of Two Million Dollars ($2,000,000.00) per project or location. If Special Counsel is a limited liability company, the commercial general liability coverage must be amended so that Special Counsel and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insured.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of One Million Dollars ($1,000,000.00) per accident for bodily injury and property damage. If Special Counsel does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Special Counsel must obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A.1) of this Exhibit C.

3) Workers’ Compensation Insurance as required by the State of California and Employer’s Liability Insurance with a minimum limit of One Million Dollars ($1,000,000.00) per accident for bodily injury or disease. If Special Counsel has no employees while performing Services under this Agreement, workers’ compensation policy is not required, but Special Counsel must execute a declaration that it has no employees.

4) Professional Liability/Errors & Omissions Insurance with minimum limits of One Million Dollars ($1,000,000.00) per claim and Two Million Dollars ($2,000,000.00) in aggregate.

B. Acceptability of Insurers. The insurance policies required under this Exhibit C must be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide.

C. Additional Insured/Additional Named Insured. The automobile liability policies must contain an endorsement naming EBCE, its officers, employees, agents and volunteers as additional insureds. The commercial general liability policy must contain an endorsement naming EBCE, its officers, employees, agents and volunteers as additional named insureds.
D. **Primary and Non-Contributing.** The insurance policies required under this Agreement must apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to EBCE. Any insurance or self-insurance maintained by EBCE, its officers, employees, agents or volunteers, will be in excess of Special Counsel’s insurance and will not contribute with it.

E. **Special Counsel’s Waiver of Subrogation.** The insurance policies required under this Agreement will not prohibit Special Counsel and Special Counsel’s employees, agents or Subconsultants from waiving the right of subrogation prior to a loss. Special Counsel hereby waives all rights of subrogation against EBCE.

F. **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by EBCE. At EBCE’s option, Special Counsel must either reduce or eliminate the deductibles or self-insured retentions with respect to EBCE, or Special Counsel must procure a bond guaranteeing payment of losses and expenses.

G. **Cancellations or Modifications to Coverage.** Special Counsel agrees not to cancel any insurance coverage during the Term. Special Counsel further agrees not to, reduce or otherwise modify the insurance policies required by this Agreement during the term of this Agreement, without the prior written approval of EBCE. The commercial general and automobile liability policies required under this Agreement must be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days’ prior written notice to EBCE. If any insurance policy required under Agreement is canceled or reduced in coverage or limits, Special Counsel must, within two business days of notice from the insurer, phone and notify EBCE via electronic mail and certified mail, return receipt requested, of the cancellation of or reductions to any policy.

H. **EBCE Remedy for Noncompliance.** If Special Counsel does not maintain the policies of insurance required under this Agreement in full force and effect during the term of this Agreement, or in the event any of Special Counsel’s policies do not comply with the requirements of this Exhibit C, EBCE may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, EBCE may, but has no duty to, take out the necessary insurance and pay, at Special Counsel’s expense, the premium thereon. Special Counsel must promptly reimburse EBCE for any premium paid by EBCE or EBCE, in its sole discretion, may withhold amounts sufficient to pay the premiums from payments due to Special Counsel.

I. **Evidence of Insurance.** Prior to the performance of Services under this Agreement, Special Counsel must furnish EBCE with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Agreement. The endorsements are subject to EBCE’s approval. EBCE may request, and Special Counsel must provide complete, certified copies of all required insurance policies to EBCE. Special Counsel must maintain current endorsements on file with EBCE. Special Counsel must provide proof to EBCE that insurance policies expiring during the term of this Agreement have been renewed or
replaced with other policies providing at least the same coverage. Special Counsel must furnish such proof at least two weeks prior to the expiration of the coverage.

J. **Indemnity Requirements not Limiting.** Procurement of insurance by Special Counsel will not be construed as a limitation of Special Counsel's liability or as full performance of Special Counsel's duty to indemnify EBCE under Section 9 of this Agreement.

K. **Subconsultant Insurance Requirements.** Special Counsel's insurance coverage must include its subconsultants or Special Counsel must require each of its subconsultants that perform Work under this Agreement to maintain insurance coverage that meets all of the requirements of this Exhibit C.
Exhibit E
Special Counsel's Personnel

Please see Exhibit B.
Exhibit F

Joint Representation Agreement
FIRST AMENDMENT TO LEGAL SERVICES AGREEMENT BETWEEN THE EAST BAY COMMUNITY ENERGY AUTHORITY AND KEYES & FOX LLP

THIS AMENDMENT TO THAT LEGAL SERVICES AGREEMENT BETWEEN THE EAST BAY COMMUNITY ENERGY AUTHORITY AND KEYES & FOX LLP ("Agreement") effective September 14, 2018, is entered into this 6th day of December 2018, by and between the EAST BAY COMMUNITY ENERGY AUTHORITY, an independent joint powers authority and, a Keyes & Fox, a Limited Liability Partnership ("Special Counsel") (collectively referred to as the “Parties”).

1. Section 3 entitled “Compensation to Consultant” of the Agreement is amended to read as follows:

EBCE will compensate Special Counsel for services performed pursuant to this Agreement in a total amount not to exceed fourteen thousand dollars ($14,000.00) based on the rates and terms set forth in Exhibit B, which is attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF the Parties have caused the Agreement to be executed as of the date set forth above.

KEYES & FOX
A Limited Liability Partnership

By Tim Lindl
Partner

Date: 12/6/18

EAST BAY COMMUNITY ENERGY AUTHORITY
A Joint Powers Authority

By Nick Chaset
Chief Executive Officer

Date: 12/14/18

APPROVED AS TO FORM

Lela S. Goldberg
General Counsel

ATTEST:

[Signature]
Authority Secretary